



California Regional Water Quality Control Board San Diego Region



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Supporting Document No. 4

December 2, 2008

Mr. Peter MacLaggan
Senior Vice President
Poseidon Resources
501 West Broadway
Suite 840
San Diego, CA 92101

In reply, please refer to:
Reg. Meas. ID 308381
Place ID 640063

Dear Mr. MacLaggan:

SUBJECT: Review of Proposed Poseidon Resources Carlsbad Desalination Plant
Marine Life Mitigation Plan, Resolution No. R9-2008-0039

The California Regional Water Quality Control Board, San Diego Region (Regional Board) has received the document entitled Poseidon Resources Plant Marine Life Mitigation Plan dated November 14, 2008 (MLMP). According to Poseidon Resources' (Poseidon) transmittal letter, the MLMP is intended to satisfy the requirements the Regional Board established in Resolution No. R9-2008-0039, adopted on April 9, 2008 (Resolution). The Resolution requires Poseidon to submit an amendment to the March 6, 2008 Flow, Entrainment and Impingement Minimization Plan (Minimization Plan) within six months of adoption of the Resolution, or not later than October 8, 2008. The Resolution specifies that the amendment must include a specific proposal for mitigation of impacts caused by impingement and entrainment of marine organisms resulting from seawater intake from Agua Hedionda Lagoon (Resolution, ¶ 3). In addition, the Resolution directs Poseidon to address the concerns identified in February 19, 2008 correspondence from the Regional Board to Poseidon Resources (copy attached) as well as additional enumerated concerns (Resolution, ¶ 3):

The MLMP, due not later than October 8, 2008, was not timely submitted. In any event, the MLMP fails to comply with the directives in the Resolution. The MLMP does not propose a specific mitigation site or specific proposal for mitigation at an identified site. It appears to staff that the MLMP merely presents an outline of how mitigation sites will be evaluated and selected, what elements will comprise a restoration plan, how an as-yet unidentified mitigation site will be monitored, and how mitigation site success criteria will be evaluated. Furthermore, the MLMP does not address the Regional Board's prior concerns outlined in its February 19, 2008 correspondence nor does it address all of the enumerated concerns (a) through (e) identified in paragraph 3 of the Resolution.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Mr. MacLaggan
Carlsbad Desalination Plant
Marine Life Mitigation Plan

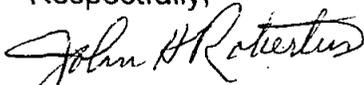
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December 2, 2008

I intend to inform the Regional Board at its upcoming meeting that the directives of Resolution No. R9-2008-0039 remain unsatisfied, and, in light of the pending litigation filed by Surfrider and San Diego Coastkeeper against the Regional Board, anticipate discussing this matter with the Regional Board in closed session, as noted on the agenda for the December 10, 2008 meeting.

If you have any questions regarding the content of this letter, please contact Mike Porter directly at (858) 467-2726 or by email mporter@waterboards.ca.gov.

Respectfully,



John H. Robertus
Executive Officer

cc: (Interested Parties List)

Interested Parties
Order No. R9-2006-0065
NPDES Permit No. CA0109223

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Order No. R9-2006-0065
NPDES Permit No. CA0109223

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Order No. R9-2006-0065
NPDES Permit No. CA0109223

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